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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER BURKE, JEFF A	
			ART UNIT 2169	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/603,601

Applicant(s)

MARKS, JAMES D.

Examiner

JEFFREY A. BURKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8-10, 12-14, 23-35, 51 and 61-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 28, 29 and 35 is/are rejected.
- 7) ☒ Claim(s) 9, 10, 12-14, 23-27, 30-34, 51 and 61-68 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/ are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 9/4/2008.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 8, 28, 29 and 35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Patent No. 7,418,437 in view of Applicant Admitted Prior Art (AskMe.com).

3. With respect to claim 8, '437, claim 3 discloses all of the features taught in the instant application with the following exception: '437 patent does not explicitly claim "and a third party providing a payment, the third party being associated with a third party product or service, wherein the payment is directed to fund access to the interactive network site by the one user." AAPA discloses and a third party providing a payment, the third party being associated with a third party product or service, wherein the payment is directed to fund access to the interactive network site by the one user (col. 2, lines 5-12, *a bonus point system distributes money each month to the top rated experts and users, i.e. a third party, the web site pays the experts for their answers*).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of the '437 patent to include the funding plans of AAPA, to allow interactive websites to be funded. The suggestion/motivation to combine is that this provides operational funding to keep the website in business.

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4. With respect to claim 28, '437, claim 1 discloses all of the features taught in the instant application with the following exception: '437 patent does not explicitly claim "displaying a banner advertisement for a third party on a page of at least one client interface accessed by the plurality of users; and providing a payment for the banner advertisement by the third party, wherein an amount of the payment is determined by a monitoring of traffic on the network site by the server. AAPA discloses providing a payment by a third party, wherein the third party is a sponsor of at least one of the first forum or the second forum (col. 2, lines 5-12, *a bonus point system distributes money each month to the top rated experts and users, i.e. a third party, the web site pays the experts for their answers, the users that answer the most questions are monitored by bonus points. Thereby, providing network traffic monitoring*). The claim language fails to suggest a banner advertisement, but while distinct from the '437 patent, the distinction is not patently distinct for the purpose of extending a patent term. Specifically the '437 patent describes sponsored content for an interactive question and answer site (Figure 3, *this page is sponsored in part by ...*). Therefore, it would have been an obvious variant to one of ordinary skill in the art, to provide sponsored content because the reference has obviously identified a need for sponsored content as demonstrated in Figure 3.

It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of the '437 patent to include the funding plans of AAPA, to allow interactive websites to be funded. The suggestion/motivation to combine is that this provides operational funding to keep the website in business.

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The combination of '437 and AAPA do not disclose the use of banner advertisement, and while this is a distinction from the '437 patent, it is not considered patentably distinct. Banner advertisements are well known in the art, and one of ordinary skill in the art, at the time of the invention would have known how to provide a banner advertisement. The suggestion/motivation to allow banner advertisement is to provide remuneration for the third party funding by virtue of advertising space.

5. With respect to claim 29, '437, claim 1 discloses all of the features taught in the instant application with the following exception: '437 patent does not explicitly claim "providing a payment by a third party, wherein the third party is a sponsor of at least one of the first forum or the second forum." AAPA discloses providing a payment by a third party, wherein the third party is a sponsor of at least one of the first forum or the second forum (col. 2, lines 5-12, *a bonus point system distributes money each month to the top rated experts and users, i.e. a third party, the web site pays the experts for their answers*).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of the '437 patent to include the funding plans of AAPA, to allow interactive websites to be funded. The suggestion/motivation to combine is that this provides operational funding to keep the website in business.

6. With respect to claim 35, '437, claim 1 discloses all of the features taught in the instant application with the following exception: '437 patent does not explicitly claim "a

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third party providing a payment for funding the posting of the response, the third party identified as being associated with at least one of the at least two forums. " AAPA discloses a third party providing a payment for funding the posting of the response, the third party identified as being associated with at least one of the at least two forums (col. 2, lines 5-12, *a bonus point system distributes money each month to the top rated experts and users, i.e. a third party, the web site pays the experts for their answers*).

It would have been obvious to one of ordinary skill in the art, at the time of the invention to modify the system of the '437 patent to include the funding plans of AAPA, to allow interactive websites to be funded. The suggestion/motivation to combine is that this provides operational funding to keep the website in business.

7. Claims 8, 28, 29 and 35 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over of U.S. Patent No. 7,472,071.

8. With respect to claim 8, claim 15 of '071 patent discloses all of the limitations recited in the instant application, Except, "A third party providing a payment, the third party being associated with a third party product or service, wherein the payment is directed to fund access to the interactive network site by the one user". While distinct from the '071 patent, the distinction is not patently distinct for the purpose of extending a patent term. Specifically the '071 patent describes sponsored content for an interactive question and answer site (Figure 3, *this page is sponsored in part by ...*). Therefore, it would have been an obvious variant to one of ordinary skill in the art, to provide

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sponsored content because the reference has obviously identified a need for sponsored content as demonstrated in Figure 3.

9. With respect to claim 28, claim 32 of '071 patent discloses all of the limitations recited in the instant application, except, "displaying a banner advertisement for a third party on a page of at least one client interface accessed by the plurality of users; and providing a payment for the banner advertisement by the third party, wherein an amount of the payment is determined by a monitoring of traffic on the network site by the server". While this is a distinction from the '071 patent, it is not patentably distinct. The '071 recognizes the need for sponsor content and banner advertisements as evidenced by Figure 3 of the '071 patent (*This page is sponsored in part by...*). Therefore, it would have been an obvious variant of the '071 patent to provide banner advertisements wherein the amount of payment is determined by the traffic on the network server. Content advertising is old and well known in the art, the suggestion/motivation to provide payment based on traffic is also old and well known in advertising circles. For example, prime time television show advertisements are more costly than daytime slots because of expected viewership. The suggestion/motivation to combine is to provide the most economically advantageous pricing for high demand traffic pages.

10. With respect to claim 29, claim 32 of '071 patent discloses all of the limitations recited in the instant application, except, "providing a payment by a third party, wherein the third party is a sponsor of at least one of the first forum or the second forum." The



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'071 recognizes the need for paid third party funding as evidenced by Figure 3 of the '071 patent (*This page is sponsored in part by...*). Therefore, it would have been an obvious variant of the '071 patent to provide third party sponsoring of a forum.

Therefore, it would have been an obvious variant to one of ordinary skill in the art, to provide sponsored content because the reference has obviously identified a need for sponsored content as demonstrated in Figure 3.

11. With respect to claim 35, claim 32 of '071 patent discloses all of the limitations recited in the instant application, except, "providing a payment by a third party for funding the posting, the third party identified as being associated with at least one of the at least two forums." The '071 recognizes the need for paid third party funding as evidenced and an association between the sponsor and the forum by Figure 3 of the '071 patent (*This page is sponsored in part by... Bayer et al. are associated with the insight from the experts forum*). Therefore, it would have been an obvious variant of the '071 patent to provide a third party sponsored forum with an association between the forum and the third party, to allow more effective placement of a sponsor on forums they would be marketing to. Therefore, it would have been an obvious variant to one of ordinary skill in the art, to provide sponsored content because the reference has obviously identified a need for sponsored content as demonstrated in Figure 3.

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Bean on 12/18/2008.

2. With respect to claim 8, amend as follows:

A method implemented on a server for funding at least one interactive network site, the at least one interactive network site hosted by the server, presenting questions submitted by at least one of a plurality of users to at least one of at least two experts, the questions being submitted via at least one client interface, each client interface being identified to the users as a forum on a predetermined subject matter of the forum, at least one forum presenting the at least two experts as experts on the predetermined subject matter of the forum, the method comprising the steps of:

the server receiving a question submitted by one of the plurality of users via the client interface of the at least one forum;

the server routing the submitted question for presentation to one of the at least two experts;

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the server presenting the question to the one expert via one of a plurality of personal expert interfaces, each personal expert interface being uniquely associated with one of the at least two experts and in communication with the server;

the server receiving a first command via the personal expert interface of the one expert, the first command including an instruction for the server to route the question to another one of the at least two experts via a personal expert interface of the other expert; and

the server verifying receipt of a a third party providing a payment, the third party being associated with a third party product or service, wherein the payment [[is]] directed to fund access to the interactive network site by the one user, the payment being provided by a third party associated with a third party product or service.

3. With respect to claim 9, amend as follows:

The method in accordance with claim 8, wherein ~~further comprising the step of:~~ the third party provides ~~providing~~ an additional benefit for the one user, the additional benefit comprising at least one of a discount on a product, a medical treatment, a drug, an insurance premium, a deductible, or a co-payment contribution.

4. With respect to claim 12, amend as follows:

The method in accordance with claim 8, wherein ~~further comprising the step of:~~

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the third party provides ~~providing~~ a benefit in addition to the access-funding payment, the additional benefit concerning a third party product or service and being provided to a fourth party other than the third party, the user, and the expert.

5. With respect to claim 28, amend as follows:

A method implemented on a server for funding at least one interactive network site hosted by ~~[[a]]~~ the server, the at least one interactive network site providing answers to questions presented by a plurality of users, the users communicating with the server via a plurality of client interfaces, each of the client interfaces being identified to the users as a forum on a predetermined subject matter of the forum, the forum enabling users to present questions and to view questions and answers relating to the predetermined subject matter of the forum, the method comprising the steps of:

generating at least two fora by the server on the at least one interactive network site;

receiving a question at the server presented by a user accessing a first forum at one of the at least one interactive network site;

posting the question by the server in a location on the server accessible to at least one expert;

presenting the question by the server to the at least one expert via a personal expert interface of the at least one expert, said interface being unique to the at least one expert and on which the question is displayed for the at least one expert to answer;

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receiving at the server a command via the personal expert interface from the at least one expert in response to the question, wherein the command includes an answer responding to the question and an instruction;

wherein the server posts the answer to the first forum accessed by the user to present the question; and the server further posts the answer to the question according to the instruction, wherein the instruction instructs that the answer be posted to at least a second one of the at least two forums at which the question was not presented by the user; [[and]]

displaying a banner advertisement for a third party by the server on a page of at least one client interface accessed by the plurality of users; and

[[providing]] verifying receipt by the server of a payment for the banner advertisement by the third party, wherein an amount of the payment is determined by a monitoring of traffic on the network site by the server.

6. With respect to claim 29, amend as follows:

A method implemented on a server for funding at least one interactive network site hosted by [[a]] the server, the at least one interactive network site providing answers to questions presented by a plurality of users, the users communicating with the server via a plurality of client interfaces, each of the client interfaces being identified to the users as a forum on a predetermined subject matter of the forum, the forum enabling users to present questions and to view questions and answers relating to the predetermined subject matter of the forum, the method comprising the steps of:

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generating at least two fora by the server on the at least one interactive network site;

receiving a question at the server presented by a user accessing a first forum at one of the at least one interactive network site;

posting the question by the server in a location on the server accessible to at least one expert;

presenting the question by the server to the at least one expert via a personal expert interface of the at least one expert, said interface being unique to the at least one expert and on which the question is displayed for the at least one expert to answer;

receiving at the server a command via the personal expert interface from the at least one expert in response to the question, wherein the command includes an answer responding to the question and an instruction; wherein the server posts the answer to the first forum accessed by the user to present the question; and the server further posts the answer to the question according to the instruction, wherein the instruction instructs that the answer be posted to at least a second one of the at least two forums at which the question was not presented by the user; and

~~providing~~ verifying receipt by the server of a payment by a third party, wherein the third party is a sponsor of at least one of the first forum or the second forum.

7. With respect to claim 35, amend as follows:

A method implemented on a server for funding at least one interactive network sites site hosted by [[a]] the server, the at least one interactive network site providing

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answers to questions presented by a plurality of users, the users communicating with the server via a plurality of client interfaces, each of the client interfaces being identified to the users as a forum on a predetermined subject matter of the forum, the forum enabling users to present questions and to view questions and answers relating to the predetermined subject matter of the forum, the method comprising the steps of:

the server generating at least two forums in the at least one interactive network site;

the server sending a question presented by a user accessing a first one of the at least two forums to a first expert via a personal expert interface of the first expert, the personal expert interface of the first expert being a web page unique to the first expert on which the question is displayed;

the server receiving a first response to the question from the first expert, the first response including an answer to the question and a first instruction to post the answer to the question;

the server posting the answer to the question to the first forum accessed by the user to present the question; and in response to the first instruction, further posting the answer to the question, according to the first instruction, to a second one of the at least two forums, at which the question was not presented by the user; and

the server verifying receipt of ~~a third party providing~~ a payment by a third party for funding the posting of the response, the third party identified as being associated with at least one of the at least two forums.

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8. With respect to claim 62, amend as follows:

The method in accordance with claim 35, wherein ~~further comprising the step of:~~  
the third party provides ~~providing~~ a benefit in addition to the funding payment, the additional benefit concerning a third party product or service and being provided to a fourth party other than the third party, the user, and the expert.

***Allowable Subject Matter***

9. The following is an examiner's statement of reasons for allowance:

Claim 8 – With respect to claim 8, the functions which forms the basis of the reasons of allowance are as follows: The combination of Douglass and Liles disclose in combination all of the limitations recited in claim 8 except: ***The server receiving a first command via the personal expert interface of the one expert, the first command including an instruction for the server to route the question to another one of the at least two experts via a personal expert interface of the other expert.***

a. Claim 28 – With respect to claim 28, the functions which forms the basis of the reasons of allowance are as follows: The combination of Douglass and Liles disclose in combination all of the limitations recited in claim 28 except: receiving at the server a command via the personal expert interface from the at least one



expert in response to the question, wherein the command includes an answer responding to the question and an instruction; wherein the server posts the answer to the first forum accessed by the user to present the question; and the server further posts the answer to the question according to the instruction, wherein the instruction instructs that the answer be posted to at least a second one of the at least two forums at which the question was not presented by the user.

b. Claim 29 -- With respect to claim 29, the functions which forms the basis of the reasons of allowance are as follows: The combination of Douglass and Liles disclose in combination all of the limitations recited in claim 29 except: receiving at the server a command via the personal expert interface from the at least one expert in response to the question, wherein the command includes an answer responding to the question and an instruction; wherein the server posts the answer to the first forum accessed by the user to present the question; and the server further posts the answer to the question according to the instruction, wherein the instruction instructs that the answer be posted to at least a second one of the at least two forums at which the question was not presented by the user.

c. Claim 35 -- With respect to claim 35 the functions which forms the basis of the reasons of allowance are as follows: The combination of Douglass and Liles

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disclose in combination all of the limitations recited in claim 35 except: the server posting the answer to the question to the first forum accessed by the user to present the question; and in response to the first instruction, **further posting the answer to the question, according to the first instruction, to a second one of the at least two forums, at which the question was not presented by the user.**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

2. In response to the rejection of claims 1-6, applicant has cancelled claims 1-6, rendering moot any rejections or arguments based on the rejection of claims 1-6.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. US Patent No. 6,122,632 – Is cited for the functionality of forwarding e-mail communications to a database where they may later be answered by a customer service rep.

b. US Patent No. 6,938,068 – IS cited for the functionality of an expert ranking service based on questions submitted by a client and answered by an expert. This application is not considered prior art because of the filing date.

c. US Patent No. 6,526,404 – IS cited for the functionality of providing a method for selecting the recipient of a specific message.

d. US Patent No. 6,691,159 – IS cited for the functionality of a service that allows users to chat on-line with experts through chat rooms. Experts

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and persons are linked via the on-line chat interface, and further links experts and persons by the subject that they are interested in.

e. US Patent No. 7,167,855 – Is cited for the functionality of providing the matching between an expert, who has submitted his credentials, to a client seeking an expert with certain credentials.

f. US Patent No. 7,376,700 – Is cited for the functionality of providing a plurality of concerns from a client to a server, each client being set up with a specific coach, and the coach providing recommendations regarding the concerns of the client.

g. US Publication 2003/0163356 -- Is cited because it is the related application to the current application, and has already passed to allowance.

h. US Publication 2006/0111943 — Is cited for the functionality of providing answers to health related questions. For example, this publication relates to providing information from a user to a server which will then retrieve information relevant to the user's health. This application is not considered prior art because of the filing date.

i. US Publication 2008/0108881 – Is cited for the functionality of selecting multiple forums related to different subject matter. Furthermore, it is cited for the functionality of providing information from the first forum to a second user, not associated with the first user. This application is not considered prior art because of the filing date.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY A. BURKE whose telephone number is (571)270-3844. The examiner can normally be reached on M-R: 7:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trujillo can be reached on 571-272-3677. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeff A Burke/  
Examiner, Art Unit 2169



**HOSAIN ALAM**  
**SUPERVISORY PATENT EXAMINER**